

AMENDED IN ASSEMBLY APRIL 27, 2004

AMENDED IN ASSEMBLY APRIL 12, 2004

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2445

Introduced by Assembly Member Canciamilla

February 19, 2004

An act to amend Sections 4800, 4802, and 4805 of, and to amend and renumber Section 4716 of, the Probate Code, relating to advance health care directives.

LEGISLATIVE COUNSEL'S DIGEST

AB 2445, as amended, Canciamilla. Advance health care directives: registry.

Existing law provides that an adult with capacity may give individual health care instructions and defines advance health care directives in this regard. Existing law requires a supervising health care provider who knows of the existence of an advance health care directive to record it in a patient's health care record, and requires a health care provider to comply with the instructions of an advance health care directive, with specified exceptions. Existing law directs the Secretary of State to establish an advance health care directive registry to receive and release specified information from a person who has executed a written advance health care directive. Existing law permits the Secretary of State to charge a fee to cover the actual costs of establishing and maintaining the registry.

This bill would require the Secretary of State to issue an Advance Health Care Directive Registry identification card to a registrant who has deposited advance health care directive information with the registry, and would require the Secretary of State to charge a fee to cover the actual costs of establishing and maintaining the registry. The bill would remove a prohibition on honoring an advance health care directive unless it receives a copy from a registrant, and would further require certain hospitals to check the registry for an advance health care directive, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4716 of the Probate Code, as added by
2 Chapter 329 of the Statutes of 2001, is amended and renumbered
3 to read:

4 4717. (a) Notwithstanding any other provision of law, within
5 24 hours of the arrival in the emergency department of a general
6 acute care hospital of a patient who is unconscious or otherwise
7 incapable of communication, the hospital shall make reasonable
8 efforts to contact the patient's agent, surrogate, or a family member
9 or other person the hospital reasonably believes has the authority
10 to make health care decisions on behalf of the patient. A hospital
11 shall be deemed to have made reasonable efforts, and to have
12 discharged its duty under this section, if it does all of the following:

13 (1) Examines the personal effects, if any, accompanying the
14 patient and any medical records regarding the patient in its
15 possession, and reviews any verbal or written report made by
16 emergency medical technicians or the police, to identify the name
17 of any agent, surrogate, or a family member or other person the
18 hospital reasonably believes has the authority to make health care
19 decisions on behalf of the patient.

20 (2) Contacts or attempts to contact any agent, surrogate, or a
21 family member or other person the hospital reasonably believes
22 has the authority to make health care decisions on behalf of the
23 patient, as identified in paragraph (1).

24 (3) Contacts the Secretary of State *directly or indirectly,*
25 *including by voicemail or facsimile,* to inquire whether the patient
26 has registered an advance health care directive with the Advance



1 Health Care Directive Registry, *if the hospital finds evidence of the*
2 *patient's Advance Health Care Directive Registry identification*
3 *card either from the patient or from the patient's family or*
4 *authorized agent.*

5 (b) The hospital shall document in the patient's medical record
6 all efforts made to contact any agent, surrogate, or a family
7 member or other person the hospital reasonably believes has the
8 authority to make health care decisions on behalf of the patient.

9 (c) Application of this section shall be suspended during any
10 period in which the hospital implements its disaster and mass
11 casualty program, or its fire and internal disaster program.

12 SEC. 2. Section 4800 of the Probate Code is amended to read:

13 4800. (a) The Secretary of State shall establish a registry
14 system through which a person who has executed a written
15 advance health care directive may register in a central information
16 center, information regarding the advance directive, making that
17 information available upon request to any health care provider, the
18 public guardian, or other person authorized by the registrant.

19 (b) Information that shall be received and released is limited to
20 the registrant's name, social security or driver's license or other
21 individual identifying number established by law, if any, address,
22 date and place of birth, the registrant's advance health care
23 directive, an intended place of deposit or safekeeping of a written
24 advance health care directive, and the name and telephone number
25 of the agent and any alternative agent.

26 (c) When the Secretary of State receives information from a
27 registrant, the secretary shall issue the registrant an Advance
28 Health Care Directive Registry identification card indicating that
29 an advance health care directive, or information regarding an
30 advance health care directive, has been deposited with the registry.
31 Costs associated with issuance of the card shall be offset by the fee
32 charged by the Secretary of State to receive and register
33 information at the registry.

34 (d) The Secretary of State, at the request of the registrant or his
35 or her legal representative, shall transmit the information received
36 regarding the written advance health care directive to the registry
37 system of another jurisdiction as identified by the registrant, or his
38 or her legal representative.

39 (e) The Secretary of State shall charge a fee to each registrant
40 in an amount such that, when all fees charged to registrants are

1 aggregated, the aggregated fees do not exceed the actual cost of
2 establishing and maintaining the registry.

3 SEC. 3. Section 4802 of the Probate Code is amended to read:

4 4802. The Secretary of State shall establish procedures to
5 advise each registrant of the following:

6 (a) Each registrant must notify the registry upon revocation of
7 the advance directive.

8 (b) Each registrant must reregister upon execution of a
9 subsequent advance directive.

10 SEC. 4. Section 4805 of the Probate Code is amended to read:

11 4805. Nothing in this part shall be construed to affect the duty
12 of a health care provider to provide information to a patient
13 regarding advance health care directives pursuant to any provision
14 of federal law.

